

87-581<sup>(1)</sup>

Supreme Court, U.S.

FILED

OCT 9 1987

JOSEPH F. SPANIOL, JR.  
CLERK

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1987

GEORGE PAPPANIKOLAOU, PETITIONER, pro se

v.

ADMINISTRATOR OF THE VETERANS ADMINISTRATION,  
Respondant

On Writ of Certiorari to the U.S. Court  
of Appeals for the Second Circuit.

PETITION FOR WRIT OF CERTIORARI

George Pappanikolaou

621 90th Street

Brooklyn, New York 11228-3508

Phone: (718) 680-8504

39 PP



QUESTION PRESENTED FOR REVIEW

1. Whether a "final and conclusive" decision made by the Administrator of the Veterans Administration under law 38 USC 211a awarding a Disabled Veteran benefits for service-connected disabilities which became "permanent and protected" after 20 years under law 38 CFR 3.951; is now subject to judicial review, change, and retroactive revocation by the Administrator of the Veterans Administration and by the United States Federal Courts?



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## TABLE OF AUTHORITIES

1. 38 USC 211a - Pages 1, 5, 6, 9, 11, 12,  
17, 22, and 24.
2. 38 CFR 3.951 - Pages 1, 5, 6, 8, 12,  
and 22.
3. Restatement Second of Judgements,  
American Law Institute, Res Judicata,  
Exceptions to the General Rule of Bar;  
Pages 7, 13, and 25.
4. 28 USC 1254 - Page 4
5. 38 CFR 4.132 - Pages 10 and 24.
6. 38 CFR 4.124a - Pages 10 and 24.





JURISDICTION OF THE U.S. SUPREME COURT

PETITION FOR WRIT OF CERTIORARI TO THE U.S.  
COURT OF APPEALS FOR THE SECOND CIRCUIT.

Petitioner George Pappanikolaou, pro  
se, most respectfully prays that a Writ of  
Certiorari issue to review the judgement of  
the U.S. Court of Appeals for the Second  
Circuit entered on July 29, 1987; Docket  
No. 86-6286

The jurisdiction of this Court is  
invoked under law 28 USC 1254.



38 USC 211a. DECISIONS BY ADMINISTRATOR;

(a) On and after October 17, 1940, except as provided in sections 775, 784, and as to matters arising under chapter 37 of this title, the decisions of the administrator on any question of law or fact under any law administered by the Veterans' Administration providing benefits for veterans or survivors shall be final and conclusive and no other official or any court of the United States shall have power or jurisdiction to review any such decision by an action in the nature of mandamus or otherwise.

38 CFR 3.951 Preservation of disability Ratings.

A disability which has been continuously rated at or above any evaluation of disability for twenty or more years for compensation purposes under laws administered by the Veterans Administration will not be reduced to less than such evaluation except upon a showing that such



rating was based on fraud.

#### STATEMENT OF THE CASE

It must be clearly understood, as proven by uncontested evidence from the Administrator of the VA, hereafter the "Administrator"; that the Petitioner is seeking to receive compensation for his previously awarded disability benefits; awarded to the Petitioner by the Administrator under law 38 U.S.C. 211a with an effective date of Petitioner's separation date from Service (June 9, 1956); which became permanent and protected under law 38 C.F.R. 3.951 after 20 years on June 9, 1976; and may no longer be revoked.

These previously awarded benefits were sufficient for the Petitioner to receive the maximum possible compensation (100%); as of the earliest possible date (June 9, 1956). Petitioner is not trying to obtain any new or additional benefits, or to change any previous decision made by the Administrator, since petitioner would



not be entitled to even one cent more in compensation, even if the Administrator were to award him every additional benefit possible, or if the Petitioner were allowed to change every previous decision that the Administrator has ever made.

The U.S. District Court (S.D.N.Y.) Endorsement, attached Exhibit A, Page 2, Paragraph 3; admitted that the previous "court of appeals decision constitutes the law of the case"; that said decision dismissed Petitioner's case for "lack of subject matter jurisdiction" and not based on "the merits of the case"; but dismissed Petitioner's attempt to litigate his case as being "res judicata"; contrary to the opinions of authorities cited by the Petitioner, including Restatement Second of Judgements, ALI, 1982 under Res Judicata, Former Adjudication, Part 20, Page 170 which states: "Judgement for Defendant-Exceptions to the General Rule of





Bar (1) A personal judgement for the defendant, although valid and final, does not bar another action by the Plaintiff on the same claims: (a) When the judgement is one of dismissal for lack of jurisdiction,...".

Further, Page 3, Paragraph 2; The Court placed an injunction on the Petitioner that forever bars the Petitioner from any court action against the Administrator and prevents him from ever obtaining a "day in court" or a decision on "the merits of his case". Please note that the claims listed at the beginning of the Endorsement are not all of the Petitioner's actual claims, but are the Administrator's misinterpretation of same.

The Second Circuit Court of Appeals affirmation of the District Court's decision and Endorsement is Exhibit B. Petitioner's "Motion for Rehearing" is Exhibit C; based on the fact that the Courts never considered that in the previous



cases, the Courts had in effect changed and retroactively denied a previous "final and conclusive" decision made by the Administrator under law 38 U.S.C. 211a, effective June 9, 1956, awarding benefits to Petitioner which became "permanent and protected" under law 39 C.F.R. 3.951 after 20 years on June 9, 1976; by denying the Petitioner compensation for his previously awarded benefits; and by allowing the Petitioner to plead his case pro se, the original decision awarding Petitioner benefits was **effectively** retroactively revoked by both the Administrator and the Federal Courts, as explained below:

As shown by uncontested evidence, including three letters from the Brooklyn Regional Office of the Veterans Administration itself, informing the Petitioner of his awarded benefits; Exhibits D, E, and F; with copies of same having been placed in Petitioner's "Veterans Administrative files", Exhibit G; bottom, the Petitioner was



awarded disability benefits for "Psychotic Reaction"; and "Tension and Sinusitis Headaches", both of which are pain conditions analgous to Migraine; Exhibit D, Paragraph 4, and Exhibit E, second half of second paragraph. Exhibit F, VA circled paragraph; these benefits were equal to a "total disability rating of 180%"; (Psychotic Reaction 70%, and Tension and Sinusitis Headaches rated at 50% each);\* that a decision as to whether Petitioner was "totally disabled" would be "favorable", entitling the Petitioner to the maximum compensation; effective June 9, 1956; Exhibit D, end of the fourth paragraph.

Under law 38 C.F.R. 4.132 - 9200 (70%), the Psychotic Reaction condition has symptoms of "severe impairment of social and industrial adaptability". Analgous to Migraine, under law 38 C.F.R. 4.124a, 8100 (50%), each of the Tension and Sinusitis Headaches conditions has symptoms of "severe economic inadaptability". Since \*plus a previous 10% for a bad knee.



the Petitioner has the symptoms previously mentioned as being part of the disability benefits previously awarded him by the Administrator, then certainly the Petitioner would be unable to represent himself in Court, if the Administrator's decision under law 38 U.S.C. 211a is accepted as being "final and conclusive".

Since the Administrator acknowledged the Petitioner's pro se pleadings in Court, the Administrator effectively revoked his own previous decision, which the Federal Courts all allowed. Further, since the Federal Courts also acknowledged the Petitioner's pro se pleadings; then they too revoked the same decision made by the Administrator; including the Supreme Court which previously considered and denied Petitioner's pro se request for a Writ of Certiorari, in two different cases.





## REASONS FOR GRANTING THIS REQUEST FOR A WRIT

The Supreme Court must reaffirm its previous decision that decisions made by the Administrator of the Veterans Administration relating to Veterans' benefits are "final and conclusive" under law 38 U.S.C. 211a, and are not subject to judicial review and/or retroactive denial, even when said benefits become "permanent and protected" under law 38 C.F.R. 3.951 after 20 years; or risk the U.S. Courts being inundated by claims from Disabled Veterans who would be allowed judicial review of all decisions relating to the awarding of disability benefits by the Administrator. Further, these same Veterans may panic at the thought of the Administrator now having the power to retroactively revoke previously awarded benefits,\* with Veterans finding themselves without compensation for previously awarded benefits, and in debt to the Government for compensation received for retroactively denied benefits.

\*AS WAS DONE WITH SOCIAL SECURITY BENEFITS.



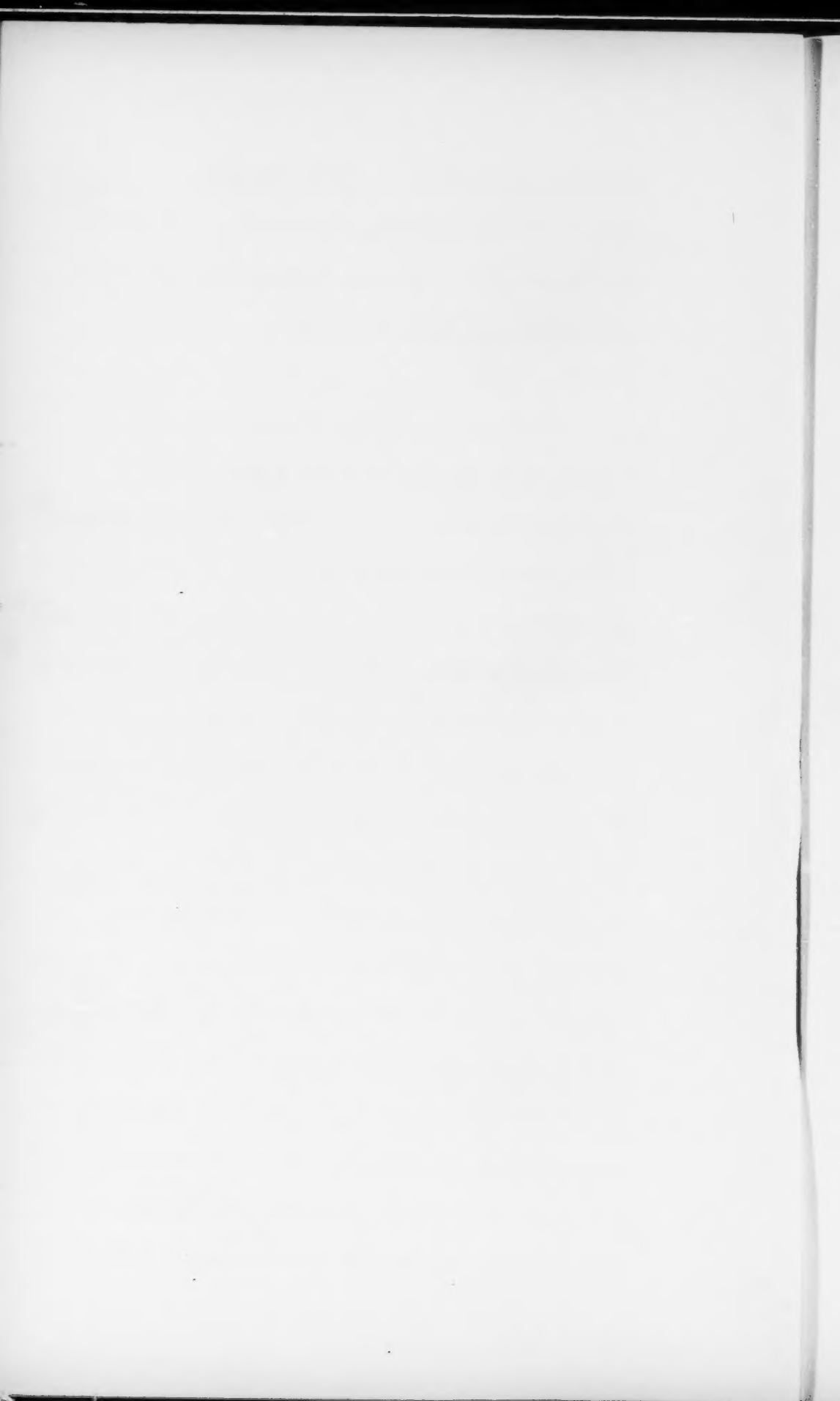
Finally, would the Supreme Court allow a disabled veteran to be denied a "day in court"; by a Court of Appeals decision that simulataneously recognizes and ignores its own previous decision? Said previous decision is recognized to allege "res judicata" based on a misinterpretation of the Exceptions to the General Rule of Bar; then ignored to place an injunction on the Petitioner, based on two lower district Court decisions of "sua sponte" which said previous Court of Appeals decision completely erased, by dismissing both cases for "lack of subject matter jurisdiction". Further, said two lower court decisions of "sua sponte" were arrived at, after the Administrator was allowed to depose the Petitioner in each case, and copy all his evidence; while the Petitioner was denied his request in each case to depose the Administrator and to obtain copies of his evidence; and was thereby denied full and fair discovery.



GEORGE PAPPANIKOLAOU, Plaintiff v. Administrator of the Veterans Administration (VA),  
Defendant. 85 Civ. 8996(MEL)

LASKER, D.J.

Plaintiff, George Pappanikolaou, brings this pro se action against the Administrator of the Veterans Administration ("the Administrator") pursuant to the Freedom of Information Act, 5 U.S.C. 552 ("FOIA") and the Privacy Act, 5 U.S.C. 552a(g). Pappanikolaou's claims are several. First, he alleges that he has not been fully provided copies of all documents concerning him maintained by the Veterans Administration ("VA"). Second, he seeks amendment of his VA records to reflect a disability determination he asserts was made, but never recorded, in 1958 for a psychiatric condition. Third, Mr. Pappanikolaou seeks an award of disability benefits retroactive to June 9, 1956, as remuneration for that alleged disability determination, and Fourth, plaintiff claims he is entitled



to damages for the VA's alleged violations of FOIA and the Privacy Act.

This action represents Mr. Pappanikolaou's fourth attempt to litigate these claims. He has brought three prior actions in the Eastern District of New York before Judge Bramwell, all of which appear to have rested upon the same underlying facts. In the first of these actions, the Administrator was granted judgement on the pleadings and plaintiff's case was dismissed without prejudice for failure to comply with Federal Tort Claims Act procedural requirements. Plaintiff's second and third actions were dismissed simultaneously with each other, sua sponte, on the grounds that they were "frivolous, harrassing or malicious."

Pappanikolaou v. Administrator of the Veterans Administration, No. 83-3678 (E.D. N.Y. Sept. 21, 1984). Subsequently, the Court of Appeals affirmed the dismissal of the consolidated second and third actions on different grounds than those relied upon by





the district court. See Pappanikolaou v. Administrator of the Veterans Administration, 762 F.2d 8 (2nd Cir.), cert. denied, \_\_\_ U.S. \_\_\_, 106 S. Ct. 150 (1985). The Court of Appeals based its judgement on three grounds: first, the court held that under 38 U.S.C. 211(a) it lacked subject matter jurisdiction to consider Pappanikolaou's claims respecting his eligibility for veteran's benefits; second, the court dismissed plaintiff's claim that the VA's handling of his benefits claim denied him due process on the grounds that "one may not circumvent 211(a) by seeking damages on a consitutional claim arising out of a denial of benefits." Pappanikolaou, supra, 762 F.2d at 9; third, Mr. Pappanikolaou's claim for damages for emotional distress was dismissed for failure to state a valid claim under New York law.

PAGE 2

In the instant case, the Administrator moves to dismiss the complaint or, in the alternative, for summary judgement on the grounds that Mr. Pappanikolaou's claims are



barred by res judicata and 38 U.S.C 211(a). The Administrator also seeks an injunction barring plaintiff from bringing further lawsuits related to or arising out of his claims for veteran's benefits.

Plaintiff's present claims are duplicative of those previously adjudicated in the Eastern District since they rest on the on the same underlying facts. "(W)hatever legal theory is advanced, when the factual predicate upon which claims are based are substantially identical, the claims are deemed to be duplicative for purposes of res judicata." Berlitz Schools of Languages of America v. Everest House, 619 F.2d 211, 215 (2d Cir. 1980). See also Teltronics Services v. L.M. Ericsson Telecommunications, 642 F.2d 31, 35 (2d Cir.), cert. denied, 452 U.S. 960 (1981); Expert Electric, Inc. v. Levine, 554 F.2d 1227, 1234 ((2d Cir.), cert. denied, 434 U.S. 903 (1977); Chira v. Lockheed Aircraft Corp., 520 F. Supp. 1390, 1391 (S.D.N.Y. 1981).



In this case, the Court of Appeals decision constitutes the law of the case for the purposes of determining whether the present claim should be barred as res judicata. Although the Court of Appeals rested its holding on lack of subject matter jurisdiction rather than on the merits, the decision nevertheless serves as a bar to reaching the merits here. "Dismissal of a suit for lack of subject matter jurisdiction precludes relitigation of the same issue of subject matter jurisdiction in a second Federal suit on the same claim." Oglala Sioux Tribe v. Homestake Mining Co., 722 F.2d 1407, 1411 (8th Cir. 1983). See also Underwriters Nat'l Assurance Co. v. North Carolina Life & Health Insurance Guaranty Ass'n., 455 U.S. 691, 706 (1982). Accordingly, the doctrine of res judicata bars Mr. Pappanikolaou from relitigating his claims here.

The Administrator asks for the issuance of a permanent injunction barring Mr. Pappanikolaou from instituting further lawsuits



based on his claims for veteran's benefits. He argues that Plaintiff has failed to heed the conclusive effect of the judgements rendered against him in the Eastern District of New York, and may continue to do so.

Plaintiff has made repeated efforts to litigate claims over which the courts clearly have no subject matter jurisdiction. Where, as here, it appears that the existance of definitive prior judgements are inadequate to protect a defendant against future repetitive lawsuits, an injunction may be granted barring plaintiff from relitigating the same claims. Redac Project 6462 v. Allstate Insurance Co., 412 F2d 1043, 1047 (2d Cir. 1969). Moreover, in addition to this court's inherent equity power to grant injunctive relief to prevent a party's abuse of the judicial process, the authority to protect and

PAGE 3

effectuate its judgements is granted to this court by the All Writs Act, 28 U.S.C. 1651(a). Here the grant of such relief is appropriate





since this is the fourth time that Mr. Pappanikolaou has subjected the Administrator and the courts to baseless litigation.

Accordingly, plaintiff is enjoined from litigating, directly or indirectly, any claims related to Veteran's benefits unless the law is changed to grant the court jurisdiction in such matters. 1/

Defendant's motion for summary judgement is granted and the complaint is dismissed; the motion for an injunction is granted.

Submit proposed decree on notice.

Dated: New York, New York Morris E.  
July 29, 1986 Lasker U.S.D.J.

1/ Although one may be sympathetic with plaintiff's dissatisfaction with the manner and time in which a determination on his claim for a psychiatric disability was made, it is nevertheless the role of Congress, and not the courts, to furnish Mr. Pappanikolaou and other Veterans with the right to judicial review of administrative decisions regarding



veteran's benefits. A bill to permit veterans to seek judicial review of certain claims and benefits decisions of the Veterans Administration (H.R. 585) is now pending before the House of Representatives. A similar measure (S. 367) was passed by the Senate on July 30, 1985.

EXHIBIT B UNITED STATES DISTRICT COURT  
----- SOUTHERN DISTRICT OF NEW YORK

George Pappanikolaou, Plaintiff

-v-

ADMINISTRATOR OF THE VETERANS ADMINISTRATION  
(VA) Defendant

JUDGEMENT  
85 Civ. 8996 (MEL)

Defendant having made a motion to dismiss the complaint or for summary judgement, and the issues having been duly briefed and presented and the Court having duly rendered its decision on July 29, 1986, it is hereby ORDERED, ADJUDGED AND DECREED, that defendant's motion for summary judgement is granted, the complaint is dismissed with prejudice, and plaintiff is enjoined from litigating, directly or indirectly, any



claims related to the veteran's benefits sought herein unless the law is changed to grant the court jurisdiction in such matters.

Dated: New York, New York  
August 11, 1986

XXXXX XXX Stanton (?)  
United States D.J.

EXHIBIT C

\*\*\*\*\*  
U.S. COURT OF Appeals for the Second Circuit  
\*\*\*\*\*

George Pappanikolaou, Plaintiff Pro Se

-- v. --

Administrator of the Veterans Administration  
\*\*\*\*\*  
DOCKET NUMBER 86-6286 MOTION FOR REHEARING

WHEREAS; this instant court by reason of allowing the Administrator of the Veterans Administration to answer Plaintiff's pleadings in this Court; and this Court, by allowing same, and by allowing the Plaintiff to plead before it, have in effect, both changed a Veterans Administration decision relating to benefits previously awarded to Plaintiff; in violation of laws 38 USC 211(a) and 38 CFR 3.951, since said awarded benefits



become "permanent and protected" after 20 years, on June 9, 1976; and cannot be revoked by the Administrator or anyone else after said date; for the sixth consecutive time.

The Administrator of the Veterans Administration was fully aware of his own decision; having originated same; while this Court should have also been fully aware of same, since it has been continuously fully informed of same said decision by the Plaintiff and by Assistant U.S. Attorney Johnston, and the Administrator's self appointed Veterans Administration expert, Mr. Kraut.

The Administrator of the Veterans Administration must have been fully aware of laws 38 USC 211(a) and 38 CFR 3.951 since they both pertain to the Veterans Administration; and have been cited continuously in every Court action by both the Administrator and the Plaintiff, making this instant Court fully aware of same, especially since this Court in its previous decision cited law





38 USC 211(a) and the "circumvention" thereof. As previously explained on numerous occasions, the Plaintiff was awarded by the Administrator of the Veterans Administration, a 70% rating for "Psychotic Reaction", and a 50% rating for each of two pain conditions of "Tension Headaches" and "Sinusitis Headaches"; as shown by the existing evidence of record. Under 38 CFR 4.132 Schedule of ratings—mental disorders, it states under 9210: "psychosis, unspecified: General Rating Formular for psychotic reactions: Active psychotic manifestations of such extent, severity, depth, persistence of bizarreness as to produce severe impairment of social and industrial adaptability."

Under 38 CFR 4.124a, rated analogously to Migraine (8100), it states "With very frequent completely prostrating and prolonged attacks productive of severe economic inadaptability".

Certainly, as extremely well known and obvious, both to the Courts and the



Veterans Administration; a disabled Veteran who has a mental problem that causes "severe impairment" of "social and industrial adaptability", and two Pain Conditions that each cause the Plaintiff to have "severe economic inadaptability"; would not be capable of representing himself in Court; as witnessed by the fact, also as previously explained on numerous occasions, that Plaintiff was never able to obtain full and fair discovery, consideration of his requests under the Freedom of Information Act and the Privacy Act, the Exceptions to the General Rule of Bar, etc. Infact, not even one of plaintiff's numerous complaints was ever acknowledged, let alone considered by the Courts, etc.

Further, due to the well known unique protection given to Veterans Administration decisions relating to benefits, which has been characterized by the United States General Accounting Office as "final and conclusive",



said decisions are not subject to change or judicial review, even if these decisions are the height of incorrectness, injustice, or absurdity; and must be accepted as if perfectly correct.

**IT IS MOST RESPECTFULLY SUBMITTED THAT:**

(1) Since the Administrator of the Veterans Administration, for the sixth consecutive time, has answered Plaintiff's pleadings in Court, the Administrator has in effect, made a de facto decision that Plaintiff is mentally and physically able to represent himself; and changed the previous Veterans Administration decision that Plaintiff was psychotic and had two pain conditions, which would have prevented the Plaintiff from representing himself in Court;

(2) Since the Courts have allowed the Administrator of the Veterans Administration to answer Plaintiff's pleadings in Court for six consecutive times, the Courts have in effect made a de facto decision that changing a previous Veterans Administration



decision relating to benefits, even one that became permanent and protected under law 38 CFR 3.951; is allowable, in violation of 38 USC 211(a);

(3) Since the Courts themselves have also allowed the Plaintiff to plead before them, for six consecutive times, they too have changed a Veterans Administration decision, which found Plaintiff incapable of doing so; also in violation of at least 38 USC 211(a). If further proof is required to show that this instant Court looks favorably upon judicial review of a Veterans Administration decision pertaining to benefits, then one need look only at the verbal pleadings of Assistant U.S. Attorney Johnston before this Court; which consisted almost entirely of judicial review of said VA decisions; which this Court did not question Johnston about or admonish her for so doing, or allowed the Plaintiff the opportunity to rebut; as was done with the previous case heard by the Court.





Most respectfully submitted; May 30, 1987  
George Pappanikolaou  
621 90th Street  
Brooklyn, New York 11228-3508  
phone 718 680-8504

EXHIBIT D

Brooklyn Regional Office 240 Livingston St.  
Brooklyn, 1, New York

May 28, 1958 C 19 703 604 3070/212A

Mr. George Pappanikolaou 8201 6th Ave.

Brooklyn, 9, New York

Dear Mr. Pappanikolaou:

This is in response to questions in your  
letter of May 8, 1958.

It was not necessary to resubmit your prior  
claim for disability compensation for bad  
knees; sinus; and a chronic character  
neurosis.

Your appeal of decisions for increased rating  
for arthrotomy, left knee, and increased  
(compensable) ratings for sinusitis, maxi-  
llary, bilateral, nonpurulent; residuals  
of septectomy, left; allergic rhinitis; and  
internal derangement, right knee; have been  
denied by Board of Veterans Appeals in deci-  
sion of August 15, 1957.



Your appeal of decisions for increased ratings for psychotic reaction, chronic; tension headache condition; and sinusitis headache condition; increased rating (compensable) for anxiety reaction, chronic; and service connection for neurasthenic reaction; has been received. Effective date is June 9, 1956.

With reference to your appeal of service connection for neuropsychiatric pathology; this has been remanded to the Brooklyn Regional Office for further development. There are some U.S. Army psychiatric records in your file, but not to the extent you indicate. With reference to your list of records, there is only confirmation of a record with a diagnosis of "Psychosis with Tension and Sinusitis Headaches." Also of record, are six post service psychiatric records.

Your request for a hearing is granted, and you will be notified of the date. Dr. Zaglin and any other person can testify, and all



testimony will be of record.

The requested record from Gouverneur  
Hospital is not available.

No further action is necessary until notified.

Very truly yours, J.J. Quinn

EXHIBIT E

Brooklyn Regional Office 250 Livingston St

Brooklyn 1, New York June 2, 1958

C 19 703 604 3070/212A

Mr. George Pappanikolaou 8201 6th Ave.

Brooklyn 9, New York

Dear Mr. Pappanikolaou:

The photostatic copy of a psychiatric  
evaluation accomplished on December 28,  
1956 at Ft. Huachuca, Arizona you have  
submitted is in the process of being  
authenticated. Your statement of inability  
to afford a copy of the courtmartial from  
which the psychiatric evaluation was taken,  
since it consists of 40 large pages and a  
photostatic copy of a small page costs four  
dollars, is noted. If the complete version  
of the courtmartial is not available, you



will be required to present your condensed version for inspection. Do not send any original records by mail to us, as they may be lost.

The copy of the Board of Veterans Appeals decision with respect to your rated arthrotomy, left knee; condition, and service connected sinusitis, maxillary, bilateral, nonpurulent; residuals of septectomy, left; allergic rhinitis; and internal derangement, right knee; conditions, and the copy of the Brooklyn Regional Office decision with respect to your rated psychotic reaction, chronic; tension headaches, chronic; and sinusitis headaches, chronic; conditions, and service connected anxiety reaction, chronic; condition, will be released to you, and action initiated, when your remanded claim for neuropsychiatric pathology has been adjudicated, and if in order, sent to the Board of Veterans Appeals.

Your complaint that you have been denied outpatient treatment for you service





connected dental condition will be investigated.

Your enclosed letters of acceptance from seven California colleges in their electrical engineering departments is acknowledged. While you were previously set up in an electrical engineering program under Public Laws 550 and 894, you must now wait until the Board of Veterans Appeals decision before you can resume your training.

Very truly yours, J.J.Quinn

EXHIBIT F

(Stamped at right side of page)

CLASSIFIED FILE 38 CFR 1.554-5 (Page)7 of 11

Brooklyn Regional Office 250 Livingston St

Brooklyn 1, New York June 12, 1958 0995

C 19 703 604 3070/212A

Mr. George Pappanikolaou 8201 6th Ave

Brooklyn 9, New York

Dear Mr. Pappanikolaou:

With respect to your letter dated June 5, 1958 with enclosures.



Receipt is acknowledged of copies of dental bills amounting to \$861.25 for outside treatment of your service connected dental condition. Your request for dental treatment at the Los Angeles Regional Office and the subsequent denial by that office is of record, and will be considered in the pending decision.

The Adjudication office has considered the issues raised, and offers its opinions, based on the remaining part of your case file at this office.

Receipt is acknowledged of the notarized statements from Mr. Cohen, and Dr. Zaglin to the effect that you were in excellent mental health prior to being drafted into service.

These statements and any testimony given at a Veterans Administration hearing are acceptable to the Veterans Administration regardless if Dr. Zaglin is a "life-long friend of the family".

While your total disability rating of 180%



is unusually large, it is not sufficient for a finding of totally disabled, without the pending adjudication decision, which should be favorable.

No further action is required on your part, until notified by the Veterans Administration. Very truly yours, J.J.Quinn Adjudication Officer.

EXHIBIT G

Veterans Administration Medical Center

800 Poly Place, Brooklyn, N.Y. 11209

April 27, 1987 Pappanikolaou, George

In reply refer to 527/136D Re: Pappanikolaou, George SSN: 086-28-0995

Dear sir: This information checked below concerns a recent request to release information to you from VA Medical Records pertaining to the above mentioned individual. (X) A copy of the information requested is enclosed. See below:

(X) The information is being furnished at the written request or with the written consent of the veteran. Since this information



is privileged, its confidentiality should be maintained.

(X) Accordingly to our files these documents dated June 2, 1958, June 12, 1958, May 28, 1958, were sent by J.J.Quinn, Adjudication Officer. Brooklyn Regional Office, 250 Livingston Street, Brooklyn, New York 10001. The attached forms were found in Veterans administrative files.

Sincerely yours, Elenor Bonus for Betty Davis  
Chief, Medical Information Section. Please call 836-6600 extension 594 if you have any questions.

EXHIBIT H

UNITED STATES COURT OF APPEALS for the  
SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the 29th day of July , 1987.

PRESENT: Hon. James L. Oakes, Hon. Jon O. Newman, Hon. Lawrence W. Pierce, Circuit Judges, George Pappanikolaou, Plaintiff-Ap-





pellant, v. ADMINISTRATOR OF THE VETERANS  
ADMINISTRATION, Defendant-Appellee.

No. 86-6286

A petition for rehearing having been  
filed herein by Plaintiff-Appellant George  
Pappanikolaou, pro-se;

Upon consideration thereof, it is ORDERED  
that said petition be and it hereby is  
DENIED. Elaine B. Goldsmoth, Clerk.

EXHIBIT I

UNITED STATES COURT OF APPEALS - SECOND CIR.

At a stated term of the U.S. Court of  
Appeals for the second circuit, held at the  
U.S. Courthouse in the City of New York, on  
the 20th day of May, 1987.

Present: Hon. James L. Oakes, Hon. Jon o.  
Newman, Hon. Lawrence W. Pierce, Circuit  
Judges. 86-6286

George Pappanikolaou, Appellant v.

Administrator of the Veterans Administration,  
Appellee. O R D E R

George Pappanikolaou, pro se, appeals the  
judgement of the U.S. District Court for the



Southern District of New York, Morris E. Lasker, Judge, dismissing his complaint and enjoining him from conducting any further litigation with respect to the claim for veterans benefits that underlies this action.

We affirm, for the reasons stated in Judge Lasker's memorandum endorsement.

N.B. Since this statement does not constitute a formal opinion of this court and it not uniformly available to all parties, it shall not be reported, cited or otherwise used in unrelated cases before this or any other court.

James L. Oakes, Jon O. Newman, Lawrence W. Pierce, Circuit Judges

*George Pappalardo*